

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

David St. Ann,

Plaintiff,

Case No. 15-11770

v.

Judith E. Levy

United States District Judge

McLean, *et al.*,

Mag. Judge Anthony P. Patti

Defendants.

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**OPINION AND ORDER DENYING MOTION FOR EXTENSION
OF TIME AND AMENDMENT OF SCHEDULING ORDER [85]**

On February 27, 2019, attorney Jeahad Kadaf was assigned to represent plaintiff David St. Ann in this matter. On June 10, 2019, St. Ann filed a motion to remove counsel, which will be heard on August 19, 2019, at the same time as the final pretrial conference. (ECF Nos. 83, 84.) Now, St. Ann seeks an extension of time and amendment of the scheduling order, to allow him more time to prepare for trial as a self-represented litigant. (ECF No. 85.)

Under Federal Rule of Civil Procedure 16(b)(4), “[a] schedule may be modified only for good cause and with the judge’s consent.” “The

primary measure of Rule 16's 'good cause' standard is the moving party's diligence in attempting to meet the case management order's requirements." *Inge v. Rock Fin. Corp.*, 281 F.3d 613, 625 (6th Cir. 2002) (internal quotation marks and citations omitted). Whether the opposing party will suffer significant prejudice is also an important consideration. *See Leary v. Daeschner*, 349 F.3d 888, 906–07 (6th Cir. 2003). Consent to modify a scheduling order is left to the sound discretion of the district judge. *Id.* at 905–06.

St. Ann has not demonstrated good cause to modify the scheduling order and trial date. This case was originally filed on May 15, 2015. (ECF No. 1.) St. Ann proceeded as a self-represented litigant for nearly four years until Mr. Kadaf was assigned to the case. St. Ann, when proceeding pro se, did not demonstrate difficulty meeting deadlines throughout this case. The record also shows that he diligently participated in discovery, filed a dispositive motion and response to defendants' dispositive motion, sought out legal guidebooks and materials from Amazon and the law library where he is incarcerated, and otherwise has taken diligent steps throughout the years to prepare his case for trial.

St. Ann's motion indicates that he seeks to adjourn the trial date because he is receiving ongoing treatment to his left ear, and "may have to undergo surgery... in the near future," but neither his motion nor the records he has attached indicate that surgery or any other medical procedure is scheduled that would interfere with the trial date. Accordingly, good cause has not been shown to modify the scheduling order.

Meanwhile, this case has been pending against defendants since 2015, and the scheduling order in this case has been modified four times already. (ECF. Nos. 40, 74, 79, 84.) Trial is set for September 3, 2019, at 8:30 a.m. and further delay is not warranted. Accordingly, St. Ann's motion for an amendment to the scheduling order is denied.

St. Ann is directed to review the Federal Rule of Civil Procedure 16 and Eastern District of Michigan Local Rules 16.1's requirements for filing the final pretrial order. Also, St. Ann and defendants are directed to this Court's practice guidelines related to the final pretrial conference, which are located at:

<http://www.mied.uscourts.gov/index.cfm?pageFunction=chambers&judgeid=44>.

For the reasons set forth above, the Court DENIES St. Ann's motion for extension of time and amendment of scheduling order.

IT IS SO ORDERED.

Dated: July 16, 2019

Ann Arbor, Michigan

s/Judith E. Levy

JUDITH E. LEVY

United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on July 16, 2019.

s/Shawna Burns

SHAWNA BURNS

Case Manager